IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1439 of 1999

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

LAKHWAD NAGRIK JAHER HITRAKSHAK SAMITI

Versus

SECRETARY

Appearance:

MR PK JANI for Petitioner No. 1

GOVERNMENT PLEADER for Respondent No. 1

RULE SERVED for Respondent No. 2-3,5

MR MUKESH A PATEL for Respondent No. 4

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 08/04/2004

ORAL JUDGEMENT

1. The petitioner is Convener of Lakhwad Nagrik Jaher Hitrakshak Samiti. By this petition the petitioner has challenged the order of Deputy Secretary (Appeals), Cooperation Department passed under section 155 of the

Gujarat Cooperative Societies Act, 1961, whereby the Deputy Secretary has cancelled the order of District Registrar as also the order passed by the Additional Registrar, Cooperative Societies.

2. The District Registrar, Cooperative Societies, Mehsana, by his order dated 22.4.1998 passed the following order:

> "Accordingly, in exercise of powers conferred on me, under section 24 of the Gujarat Cooperative Societies Act, 1961, I, District Registrar, Cooperative Societies, Mehsana, do hereby order the Bank to take necessary actions to admit 578 persons who had made applications for becoming members of the Bank as per Resolution No.6 dated 27.9.1997 passed by the Board of Directors, Lakhvad Nagrik Sahkari Bank Limited, Lakhvad, who were not enrolled as members by the Bank as the limit of authorised share capital was exhausted."

3. The aforesaid order of the District Registrar, Mehsana was confirmed by Additional Registrar (Appeals) by his order dated 8th October 1998 wherein he passed the following order:

> "Revision Application No.26/98 of the applicant is dismissed. The order No.NSB/01/B/341/1998 dated 22.4.1998 passed by the District Registrar, Cooperative Societies, Mehsana, opponent no.1, is hereby upheld.
>
> The stay order granted vide this office letter dated 1.6.1998 in this case is hereby vacated.
>
> This order is pronounced on 8.10.1998 under my signature and seal of the Court."

4. Against the said order a revision application was filed before the State Government who allowed the said application and set aside both the order of District Registrar and Additional Registrar (Appeals).

5. Mr. Jani for the petitioner has submitted that the very same officer i.e. Deputy Secretary (Appeals) has dismissed the revision application of Nagalpur Seva Sahkari Mandali Ltd on 26th February 1998 i.e. prior to the decision of revision application filed by the respondent Bank. He has also produced the copy of the order of the Deputy Secretary whereby the Deputy Secretary has confirmed the order of the Assistant

District Registrar, Cooperative Societies, Mehsana dated 25.9.1996 and also the order of Additional Registrar (Appeals), Cooperative Societies dated 30.6.1997. Mr. Jani further submitted that the ends of justice will be served if the respondent Bank is directed to consider all the applications which are referred in the application before the District Registrar as on that date and the applications may not be rejected on the ground that there is no share capital.

6. Looking to the facts and circumstances of the case, in my opinion, it would be appropriate to direct the respondent bank to consider the applications of the applicants referred in the petition. Accordingly the respondent bank is directed to consider the applications of the persons referred in the petition within three months from today keeping in mind the provisions of the Act, Rules and the Bye-laws. If the respondent bank is not inclined to admit some of the persons, a reasoned order will be passed in that regard and if there is any stigma or anything is adverse against such persons, it will be desirable that appropriate opportunity may be given to such members. In such case it will be open to such members to challenge the decision before appropriate authority in accordance with law. Accordingly the petition is partly allowed. The order of Deputy Secretary is quashed and set aside and orders of District Registrar and Additional Registrar (Appeals) are modified to the aforesaid extent. Rule is made absolute to the aforesaid extent with no order as to costs.

[K.S. JHAVERI, J.]
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